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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,518	02/25/2002	Yoshitomo Tokumoto	1560-0377P	2026
2292	7590	01/25/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			DAVIS, OCTAVIA L	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/081,518	TOKUMOTO ET AL.
	Examiner Octavia Davis	Art Unit 2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10/14/04.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 35-38, 42, 43, 48, 49 and 73 -77 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 35-38, 42, 43, 48, 49 and 73 - 77 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/25/02, 1/10/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group II, claims 35 - 38, 42, 43, 48 and 49 in the reply filed on 4/28/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 35 – 37, 42, 43, 48, 49 and 73 - 77 are rejected under 35 U.S.C. 102(e) as being anticipated by Goetz et al.

Regarding claims 35, 36, 76 and 77, Goetz et al disclose a position determining apparatus comprising means 22 for detecting a position of a target 12 and outputting a detection signal according to the detected position (See Col. 4, lines 29 – 36), a rotational member 62 on which said target is provided so that the detection signal changes according to a rotation (See Col. 5, lines 36 – 48) and angle calculating means 84 for calculating a rotational angle of said rotational member based on the detection signal multiplied by a gain, means 84 being programmable to periodically scan the outputs of the detection means, calculating a ratio of the output signals,

selecting and applying an appropriate gain correction factor, and adding an appropriate offset value to obtain the position of the magnet (See Cols. 5 and 6, lines 55 – 67 and 1 – 11).

Regarding claim 37, a distance between the target 12 and the detecting means 22 changes according to a rotation (See Cols. 4 – 6, lines 34 – 36, 36- 49 and 12 – 25).

Regarding claim 42, the detecting means 22 includes a plurality of detecting means (See Col. 4, lines 30 – 34, See Fig. 6A).

Regarding claim 43, a first judging means judges whether or not each of the detection signals of said first detecting means and second detecting means is higher than a first threshold greater than a detection signal value obtained when detection signal waveforms of said first detecting means and second detecting means cross each other, a second judging means judges whether or not each of the detection signals of said first detecting means and the second detecting means is lower than a second threshold smaller than a detection signal value obtained when the detection signal waveforms of said first detecting means and the second detecting means cross each other and a third judging means judges whether or not the detection signal waveforms of said first detecting means and second detecting means cross each other, wherein the maximum value and minimum value of said detection signal are detected based on results of judgments made by said first, second and third judging means (See Col. 7, lines 3 – 7 and 54 – 65, Col. 8, lines 1 – 24 and 37 – 60, See Figs. 12 and 13).

Regarding claim 48, offset correcting means 84 is provided for correcting the detection signal so that the calculated average value equal to a preset reference average value (See Col. 6, lines 11 – 12 and 66 – 67 and Col. 7, lines 1 – 7).

Regarding claim 49, means 84 calculates a difference between the calculated average value and the reference average value, wherein said offset correcting means adds said difference to said detection signal value so that the calculated difference becomes zero (See Col. 9, lines 12 – 29).

Regarding claim 73, the processor 84 receives the detection signal from the detector 10 and determines a rotational angle of the shaft 62 (See Col. 5, lines 36 – 49).

Regarding claim 74, the gain represents a change in an output characteristic of the detector 10 on the basis of an influence of time (See Col. 6, lines 55 - 65).

Regarding claim 75, the offset represents a supplementary gap formed between the detector and the target due to the rotation of the target about the axis (See Col. 7, lines 1 – 30).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al in view of Eguchi et al.

Regarding claim 38, Goetz et al disclose all of the limitations of these claims except for a teaching that the target is made of protrusions provided at substantially equal intervals in a circumferential direction of said rotational member. However, Eguchi et al disclose a rotational

angle detecting apparatus comprising a magnetic position sensor 22 for detecting a position of a target 16 which is formed of protrusions 15a, 15b (See Col. 2, lines 25 – 49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goetz et al according to the teachings of Eguchi et al for the purpose of, providing an improved rotational angle detecting apparatus that greatly simplifies the mounting of the apparatus to an object to be measured and that ensures greater reliability against aging and vibrations (See Eguchi et al, Col. 1, lines 41 – 47).

*Response to Arguments*

6. Applicant's failed to submit arguments with the amendment filed 10/14/04 that clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, applicant's failed to submit amendments which avoid such references or objections.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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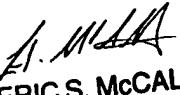
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication should be directed to examiner Octavia Davis at telephone number (571) 272 - 2176. The examiner can normally be reached on Monday - Thursdays (9:00 - 5:00), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz, can be reached on (571) 272 - 2180. The fax phone number for the organization where this application where this application or proceeding is assigned is (703) 872 - 9306.

OD/2855

1/11/05

  
ERIC S. McCALL  
PRIMARY EXAMINER